

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q87150

Hideki FUJIKURA, et al.

Appln. No.: 10/529,895

Group Art Unit: 1623

Confirmation No.: 6607

Examiner: Traviss C. McIntosh III

Filed: September 19, 2005

For: PYRAZOLE DERIVATIVE, MEDICINAL COMPOSITION CONTAINING THE SAME,
MEDICINAL USE THEREOF AND INTERMEDIATE IN PRODUCING THE SAME

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Further to the May 17, 2010 Decision on Petition setting a one-month period to request reconsideration thereof, Patentee requests reconsideration of the Patent Term Adjustment (PTA) reported in the May 17, 2010 Decision. The Director is authorized to charge Patentee's Deposit Account 19-4880 for the required fee as specified in 37 C.F.R. § 1.18(e) (\$200.00).

As required by § 1.705(b)(2) and the May 17, 2010 Decision, a Statement of the Facts is set forth below.

I. STATEMENT OF THE FACTS

A. The correct patent term adjustment and the basis or bases under §1.702 for the adjustment

Pursuant to §§ 1.702(a), Patentee submits that the total correct patent term adjustment for the present Patent should be either 969 days or 801 days (it is unclear which of these is the

correct number, as discussed in more detail below). As discussed in further detail below, this number is derived from the sum of the Office's delay calculated from §§ 1.702(a-c) (either 1084 days or 916 days, as discussed below), minus the sum of Patentee's delay calculated from § 1.704 (115 days). Patentee's calculations are discussed in more detail below.

B. Delay attributable to the USPTO (the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought)

Patentee respectfully submits that the total delay attributable to the USPTO under 37 C.F.R. § 1.703 is either 1084 days or 916. Both calculations are set forth below, but it is unclear which one is correct.

The delay attributable to the USPTO under 37 C.F.R. § 1.703(a)(1) is 583 days. In particular, the Application met the requirements of 35 U.S.C. § 371 on September 19, 2005. However, the first Office Action did not issue until June 24, 2008. Thus, under 37 C.F.R. § 1.703(a)(1) this represents a 583 day delay between the 14-month anniversary of the Application's § 371 completion date and the date on which the first Office Action issued.

The delay attributable to the USPTO under 37 C.F.R. § 1.703(b) appears to be either 501 days or 333 days, and it is unclear which of these applies. 37 C.F.R. § 1.703(b) states that the relevant delay "is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which...the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued...." However, 35 U.S.C. § 371(b) and (f) represent two different dates in the present patent. The requirements of 35 U.S.C. § 371(b) were met 30 months from the October 4, 2002 date of the

priority document JP 2002293090 (i.e., on April 4, 2005). On the other hand, the requirements of 35 U.S.C. § 371(f) were met on September 19, 2005 upon the submission of an executed Declaration. The delay attributable to the USPTO under 37 C.F.R. § 1.703(b) is therefore either 501 days (i.e., the number of days from April 4, 2008 to the August 18, 2009 issue date of the present patent) or 333 days (i.e., the number of days from September 19, 2008 to the August 18, 2009 issue date of the present patent).

Accordingly, Patentee respectfully submits that the total delay attributable to the USPTO under 37 C.F.R. § 1.703(a)-(e) is either 1084 days or 916 days.

C. Delay attributable to Patentee (any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination as set forth in § 1.704)

Patentee respectfully submits that the total delay attributable to the Applicant under 37 C.F.R. § 1.704 is 115 days. This delay stems from (1) the 90 day delay under 37 C.F.R. § 1.704(b) between the USPTO's mailing of the June 24, 2008 Office Action and Patentee's December 23, 2008 Response; and (2) the 25 day delay under 37 C.F.R. § 1.704(c)(10) between the June 12, 2009 Amendment under 37 C.F.R. § 1.312 and the USPTO's July 6, 2009 Response.

In view of the above, the total delay incurred by Patentee in the present application is 115 days.

D. Whether the application is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer

The present patent is not subject to a Terminal Disclaimer.

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E. The adjustment as specified in 37 C.F.R. § 1.703(f) to which the '378 Application is entitled

The total amount of patent term adjustment is specified in 37 C.F.R. § 1.703(f) as being the period of delay attributable to the USPTO under 37 C.F.R. §§ 1.703(a-c) less the amount of delay attributable to Applicant under 37 C.F.R. § 1.704. Accordingly, Patentee respectfully submits that the present patent is entitled to either 969 days or 801 days of PTA. This number is derived from the sum of the delay attributable to the USPTO under §§ 1.702(a-c) (either 1084 days or 916 days), minus the sum of the delay attributable to Applicant under § 1.704 (115 days).

II. CONCLUSION

In summary, Patentee respectfully submits that it is proper that the USPTO grant the present Request for Reconsideration. Favorable consideration is respectfully requested.

Respectfully submitted,

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